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23 cr 490 (SUS)
re Fred Daibes
Docket file

September 27, 2024

Honorable Sidney H. Stein
U.S. District Court
Southern District of New York
500 Pearl St.
New York, NY 10007

Dear Judge Stein:

I am writing this letter on behalf of Fred Daibes whose fate rests in your hands and judicial discretion. I would like to offer you insights into the Fred Daibes I have known for close to fifty years. He has been a dear and close friend and client and I have often been his sounding board on issues and matters affecting him. My children have known him since their infancy and they were excited to have him as a guest at their weddings.

I am a New Jersey lawyer, the son of Holocaust survivors who were sponsored to come to America. My parents settled in Paterson in 1951 where my father had heard that other Auschwitz survivors lived and where at the time there was a thriving religious Jewish community. I was the first member of my family to attend college, and then graduated school. I graduated 1972 from Rutgers Law school with a JD and the same year received my MA in English from Stony Brook.

On the surface it seems surreal for the paths of an Orthodox Jew and an Arab to cross and thereafter become intertwined. I was accepted into his family and Fred, as head of his family and breadwinner since his mid-teens always was careful to order Kosher food already prepared and provide plastic plates and cutlery. Every year Fred and his brother Joseph would put up my Sukkah that they had originally made for me, large and sturdy to withstand the uncertain Autumn weather. They would comment, only somewhat facetiously, that after their death when they would be interrogated as to their merits for entry to heaven, they could point to having put up and dismantled my Sukkah every year.

I remember first meeting a teen age orphan who after the death of his father undertook to provide for his mother, younger brother and three sisters. At the time he owned one shirt which he wore to work and each night his mother would wash and iron the shirt so he could wear it the next day and look presentable at work.

It is unfortunate that Your Honor and I have seen different aspects of the life of Fred Daibes. It is regrettable that you have not been made aware of the enormity of his generosity or the elasticity of his heart. You are doubtless aware of his extensive development of Edgewater but he was also the fulcrum for the transformation of that municipality. He felt a sense of kinship to the residents of the Borough who were, for the most part, lower middle class and virtually indigent but hard working people, of many ethnic backgrounds.

Fred would purchase hundreds of turkeys for the Borough to be handed out before Thanksgiving, and he would buy up inventories of sweaters and coats for the winter for the children in the Borough. He wanted to do the good deed and did not care about getting the credit. He also donated a minibus so the senior citizens could travel to buy groceries in the local supermarket, be able to visit their doctors or otherwise shop in the shopping areas in town. He hired scores of local townspeople to work in his construction company after they had been laid off by relocating manufacturing companies in Edgewater who sold the valuable real estate under their plants to move to less expensive parts of the State. And there are so many other acts of kindness and charity that I believe more accurately define the man including paying for medical bills of strangers and helping defray college costs for the children of his employees. I understand that he has been convicted of serious crimes, and I do not mean to trivialize that reality, and I understand that with crime comes punishment.

In my fifty plus years of practice of law I never handled criminal cases and I am not familiar with sentencing guidelines, how they work, how rigid they are or how much discretion Congress vested in the sentencing judge. I have also never written this type of letter on behalf of any defendant found guilty of crimes. In the abstract I have pondered how a punishment is tailored to fit the crime or whether protracted incarceration is akin to a one size fits all convicted defendants, but occasionally may seem somewhat out of place in a particular instance.

I keep thinking how it would be such a waste of talent to just lock up Fred Daibes. Here is a person who has spent a lifetime building homes for people in New Jersey, not just for wealthy tenants also for senior citizens and those of moderate to low income as well. Is there some way for the Government to harness that talent for the benefit of society, to fashion a type of punishment entailing community service that also curtails the normal freedom of the person. After all what does society gain from housing, feeding and providing free medical care to a diabetic prisoner in his late 60's? I apologize if I am out of place in even suggesting such a notion.

I took the liberty of looking Your Honor up online and read how from a humble upbringing in post war Passaic you were able to be educated in the best schools, worked for a prominent law firm and have crafted a distinguished career as a Federal Judge. I implore you to consider the entire person you are about to sentence and not just the aberrant side that the Government put on trial and display in your courtroom.

It is somewhat ironic that you will be determining the fate of Fred Daibes during the upcoming month in which occur the Jewish High Holy Days where we all pray to the One to whom we are all accountable to forgive our transgressions, to temper justice with mercy and to seal our fate favorably. I pray for this favorable outcome every year although I honestly question my entitlement to those prayers and requests. But then I realize that the one sealing my fate knows all of that, knows what is in my mind and heart and will decide after taking into account my entirety, the good and the bad, regardless which side of the teeter totter predominated during the year.

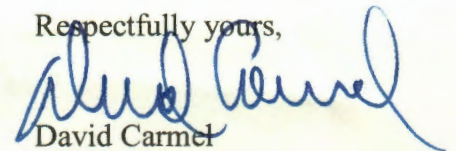
We were all created with a divine spark implanted in us. We are implored, as much as is humanly possible, to imitate the divine conduct. In fact in the Torah one of the names of God that reflects his aspect of Justice is occasionally used in a secular context

when referring to human Judges. (see Exodus, Ch. 22, V.9) I respectfully implore you reach back and perhaps allow the enhanced divine spark in you, as a human judge, to render a just, fair and considerate fate for my friend, Fred Daibes. We pray to God not to leave us empty handed in our requests. I pray to you for no less.

It is not my intention in writing this letter to you to interfere in or impede the justice system or in any way intrude on Your Honor's duties and prerogatives in this case. If anything I have written is improper, I apologize to you. I have been troubled by the current situation of a dear and longstanding friend who faces incarceration at this stage of his life and in his current medical condition. This has moved and motivated me to send this letter to Your Honor.

My sincerest wishes to you and your family for a happy and healthy upcoming year, and may your prayers be answered favorably.

Respectfully yours,



David Carmel